

**S.C (SPL) CASE No.50 of 2021**  
**(ST No.132 of 2025)**

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**Form A**

**IN THE COURT OF :**

ADDITIONAL DISTRICT & SESSIONS JUDGE CUM SPECIAL JUDGE,  
PROTECTION OF CHILDREN FROM SEXUAL OFFENCES ACT, 2ND  
COURT, PURULIA.

**PRESENT :**

Shri Rana Dam

Additional Sessions Judge cum Special Judge under Protection of  
Children from Sexual Offences Act. 2<sup>nd</sup> Court, Purulia.

[Date of Judgment :- 21.07.2026]

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**CNR No-WBPU010015752021**

Purulia (M) P.S case No.210, dt.10.9.2021, U/s.363/365/120B  
IPC

Complainant : STATE OF WEST BENGAL

REPRESENTED BY PUBLIC PROSECUTOR : Mr.A.Banerjee, Ld. Spl. P.P.

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|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>Accused (A1) :</b><br/><b>Shital Bauri,</b><br/><b>S/o. Prasanta @ Prasad Bauri,</b><br/><b>Vill : Madhuban,</b><br/><b>P.S. : Hura,</b><br/><b>District : Purulia.</b></p> <p><b>Accused (A2) :</b><br/><b>Rakesh Bauri,</b><br/><b>S/o. Krishna Bauri,</b><br/><b>Vill : Raghabpur,</b><br/><b>P.S. : Purulia (M),</b><br/><b>District : Purulia.</b></p> <p><b>Accused (A3) :</b><br/><b>Pinki Bauri,</b><br/><b>S/o. Rakesh Bauri,</b><br/><b>Vill : Raghabpur,</b><br/><b>P.S. : Purulia (M),</b><br/><b>District : Purulia.</b></p> |
| <p>REPRESENTED BY : Mr. S.Gorai, Ld. Advocate.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |

**FORM B**

|                                      |           |
|--------------------------------------|-----------|
| Date of offence                      | 7.9.2021  |
| Date of FIR                          | 10.9.2021 |
| Date of Charge sheet                 | 24.1.2024 |
| Date of Framing Charges              | 29.3.2025 |
| Date of commencement of Evidence     | 4.5.2026  |
| Date on which Judgment is reserved   | 21.7.2026 |
| Date of the Judgment                 | 21.7.2026 |
| Date of the Sentencing Order, if any | xx        |

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**Accused details:**

| Rank of the Accused | Name of Accused     | Date of arrest            | Date of release on Bail | Offences charged with                                    | Whether acquitted or convicted | Seen or convicted in presence of | Period of Detention Undergone during Trial for purpose of Section 428, Cr.P.C |
|---------------------|---------------------|---------------------------|-------------------------|----------------------------------------------------------|--------------------------------|----------------------------------|-------------------------------------------------------------------------------|
| (A1)                | <b>Shital Bauri</b> | 20.9.21                   | 15.11.21                | Us.363/365/120 IPC & U/s.6 POCSO Act r/w S.376/120B IPC. | Acquitted                      | xx                               | 20.9.21 to 15.11.21                                                           |
| (A2)                | <b>Rakesh Bauri</b> | 16.11.21<br>(Surrendered) | 16.11.21                | Us.363/365/120 IPC.                                      | Acquitted                      | xx                               | 16.11.21 to 16.11.21                                                          |
| (A3)                | <b>Shital Bauri</b> | 16.11.21<br>(Surrendered) | 16.11.21                | Us.363/365/120 IPC.                                      | Acquitted                      | xx                               | 16.11.21 to 16.11.21                                                          |

**Form C**

**LIST OF PROSECUTION / DEFENCE / COURT WITNESSES**

| RANK | NAME                                 | NATURE OF EVIDENCE<br>(EYE WITNESS,POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS,OTHER WITNESS |
|------|--------------------------------------|-----------------------------------------------------------------------------------------------------------------|
| P.W1 | Uncle of the child survivor          | Defacto complainant                                                                                             |
| P.W2 | Another uncle of the child survivor  | Dependent witness                                                                                               |
| P.W3 | Maternal uncle of the child survivor | Dependent witness                                                                                               |

**B. Defence Witnesses, if any :**

| RANK | NAME | NATURE OF EVIDENCE<br>(EYE WITNESS,POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS,OTHER WITNESS |
|------|------|-----------------------------------------------------------------------------------------------------------------|
|      |      |                                                                                                                 |

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|    |  |  |
|----|--|--|
| DW |  |  |
| DW |  |  |

**C. Court Witnesses, if any:**

| RANK | NAME | NATURE OF EVIDENCE<br>(EYE WITNESS,POLICE WITNESS, EXPERT<br>WITNESS, MEDICAL WITNESS,<br>PANCH WITNESS,OTHER WITNESS |
|------|------|-----------------------------------------------------------------------------------------------------------------------|
| CW   |      |                                                                                                                       |
| CW   |      |                                                                                                                       |

**LIST OF PROSECUTION / DEFENCE / COURT EXHIBITS**

**A. Prosecution:**

| Sr.<br>No. | Exhibit Number         | Description                                |
|------------|------------------------|--------------------------------------------|
| 1.         | <b>Exhibit-P-1/PW1</b> | Signature of PW1 on the written complaint. |

**B. Defence :**

| Sr.<br>No. | Exhibit Number | Description |
|------------|----------------|-------------|
| 1.         |                |             |
| 2.         |                |             |

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**C. Court Exhibits :**

| Sr. No. | Exhibit Number | Description |
|---------|----------------|-------------|
| 1.      |                |             |
| 2.      |                |             |

**D. Court Exhibits :**

| Sr. No. | Material Object Number | Description |
|---------|------------------------|-------------|
| 1.      |                        |             |
| 2.      |                        |             |

**J U D G M E N T**

The fact of the case in brief is that on 10.9.2021 at 12.25 hrs Purulia (M) PS received a typed written complaint from the defacto complainant to the effect that on 7.9.2021 at 19.00 hrs his minor cousin daughter, aged about 16 years, went from his house for nature's call and did not return back. Complainant searched all the probable places but it was in vain.

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Later the complainant came to know that the accused A1 Sital Bauri kidnapped his cousin daughter by enticing her and had confined her in any secret place for any bad intention by the help of accused A2 Rakesh Bauri and Pinki Bauri both of village Raghampur.

Over such written complaint Purulia (M) PS Case No.210, dt.10.9.2021, U/s.363/365/120 IPC was registered and SI Nitish Goswami was entrusted with investigation which ended in charge sheet being No.15, dt.24.1.2022, against the 03 accused persons, I.e, accused A1, A2 and A3, for offence U/s.363/365/120B IPC r/w S.6 POCSO Act.

Cognizance was taken and after compliance of S.207 Cr.P.C, having regard to the prima facie case available on record, charge for the offence U/s.363/365/120B IPC against accused A2 and A3 and U/s.363/365/120B IPC and U/s.6 POCSO Act against accused A1 was framed and the substance of accusation were stated to the accused to which they pleaded not guilty and claimed to be tried.

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In this case prosecution examined 03 witnesses to prove the case.

PW1 being uncle of the child survivor defacto complainant of this case has stated that he lodged complaint against Sital Bauri and 02 others on 10.9.2021 since his niece was found missing from 7.9.2021 evening time at about 7.00 p.m and they searched for her and came to know that she was eloped. He further stated that his complaint was typed by someone and he signed on the same and at the relevant time his niece was minor. During cross examination he deposed that that subsequently his niece was married to Sital Bauri when she attained her age of marriage and that they are living happily and peacefully as husband and wife and that the complaint was lodged due to suspicion.

PW2 being uncle of the child survivor has stated that his brother lodged the complaint against Sital Bauri and others on 10.9.2021 since his niece was found missing from their home from 7.9.2021 evening

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time at about 7.00 p.m when she went to attend nature's call, but did not return and they searched for her and came to know that she was eloped and at the relevant time his niece was minor. During cross examination he stated that subsequently his niece was married to Sital Bauri when she attained her age of marriage and that they are living happily and peacefully as husband and wife with children. Witness further stated that complaint was lodged due to misunderstanding and suspicion.

PW3 being maternal uncle of the child survivor has stated that her brother lodged complaint at Purulia(M) PS against Sital Bauri and others since his niece was found missing from their home from 2.9.2021 evening time at about 7.00 p.m when she went to attend nature's call, but did not return and they searched for her and came to know that she was eloped. During cross examination he stated that subsequently his niece was married to Sital Bauri when she attained her age of marriage and that they are

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living happily and peacefully as husband and wife with children and that complaint was lodged due to misunderstanding and suspicion.

After completion of the examination of the prosecution witnesses, the accused persons were duly examined U/s.313 Cr.P.C by putting specific and separate questions on to them being found incriminating out of the oral testimonies of the prosecution witnesses, to which they pleaded innocence and however declined to examine any defence witness.

Case was closed. Heard argument.

The Ld. Spl. P.P has submitted that the fact of the case in brief is that on 10.9.2021 at 12.25 hrs Purulia (M) PS received a typed written complaint from the defacto complainant to the effect that on 7.9.2021 at 19.00 hrs his minor cousin daughter, aged about 16 years, went from his house for nature's call and did not return back. Complainant searched all the probable places but it was in vain. Later the complainant came to know that the accused A1 Sital Bauri kidnapped his

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cousin daughter by enticing her and had confined her in any secret place for any bad intention by the help of accused A2 Rakesh Bauri and Pinki Bauri both of village Raghabpur and the prosecution witnesses have deposed against the accused persons for which the accused persons must be punished with exemplary sentence as prescribed under the law. According to the prosecution, the evidence of the prosecution witnesses are sufficient to harbour the charge in view of provision prescribed under law and that the accused persons have failed to come up with any defence against the prosecution case, the accused persons cannot claim any relief or acquittal from this case.

The Ld. Senior Defence Counsel has submitted that PW1 being uncle of the child survivor defacto complainant of this case has stated that he lodged complaint against Sital Bauri and 02 others on 10.9.2021 since his niece was found missing from 7.9.2021 evening time at about 7.00 p.m and they searched for her and came to know that she was

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eloped. He further stated that his complaint was typed by someone and he signed on the same and at the relevant time his niece was minor. During cross examination he deposed that that subsequently his niece was married to Sital Bauri when she attained her age of marriage and that they are living happily and peacefully as husband and wife and that the complaint was lodged due to suspicion. PW2 being uncle of the child survivor has stated that his brother lodged the complaint against Sital Bauri and others on 10.9.2021 since his niece was found missing from their home from 7.9.2021 evening time at about 7.00 p.m when she went to attend nature's call, but did not return and they searched for her and came to know that she was eloped and at the relevant time his niece was minor. During cross examination he stated that subsequently his niece was married to Sital Bauri when she attained her age of marriage and that they are living happily and peacefully as husband and wife with children. Witness further stated that complaint was lodged due to misunderstanding and suspicion. PW3 being maternal

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uncle of the child survivor has stated that her brother lodged complaint at Purulia(M) PS against Sital Bauri and others since his niece was found missing from their home from 2.9.2021 evening time at about 7.00 p.m when she went to attend nature's call, but did not return and they searched for her and came to know that she was eloped. During cross examination he stated that subsequently his niece was married to Sital Bauri when she attained her age of marriage and that they are living happily and peacefully as husband and wife with children and that complaint was lodged due to misunderstanding and suspicion and the instant case suffers in every way, be it factual or be it legal. According to the defence, the accused persons have been falsely implicated in this case and there was no such incident ever took place as claimed by the prosecution and in fact, the accused persons never committed any mischief and the prosecution has failed to come up with sufficient evidence to establish the allegations made in the FIR and thus the defence has prayed for acquittal of the accused persons from this

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case.

There has been no evidence that the accused A1 was ever responsible for the elopement of the VG or that the accused committed any offence in respect of the minor VG. It further appears from the evidence that the VG and the accused person are happily married couple and considering the fact that the accused has been keeping the VG properly and maintaining her in healthy manner, there cannot be any iota of offence even if the accused had married the VG when she did not attain the age of marriage.

The age of the victim has not been proved. It cannot be ascertained whether the VG was minor at the time of the incident or not, though it has been claimed by the prosecution witnesses that the victim was minor at the time of the incident but there has been no such evidence in support of the age of the victim. Therefore, question of attracting the provisions of POCSO Act remains doubtful.

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The prosecution failed to examine the Investigation Officer who investigated the case for which the defence did not get chance to cross examine this vital witness who has been responsible for investigation of this case which culminated in charge sheet against the sole accused A1.

In this case the prosecution has not examined the Medical Officer who attended the VG during investigation of this case and thus the defence could not get any chance to cross examine the vital witness or it is in dark that the child survivor ever been sexually assaulted or the accused A1 had ever committed any offence under POCSO Act against the child survivor.

That being the state of evidence, it appears that the allegations have not been proved in any way whatsoever. The prosecution case is that the accused A1 kidnapped the minor VG and also compelled to have physical relation with the accused A1. However, the evidence of prosecution witnesses do not transpire any aspect of the contents of the written complaint.

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Though law is well settled that an order of conviction can be recorded against the accused even on the sole testimony of the child survivor or the confidence of the Court if that evidence of the sterling witness could be found trustworthy and free from being doubt. However, in the present context, the court finds that prosecution in this case could not examine the child survivor who can say what actually happened against her. Defence also could not get any chance to cross examine the vital witness to unearth the truth.

Under the Provisions of the POCSO Act, there is a presumption of culpable mental state of the accused and the burden is upon the accused to prove that he is innocent.

S.29 of the POCSO Act deals with the presumption as to certain offence and S.30 of said Act deals with the presumption of culpable mental state which run as follows :

“29. Presumption as to certain offence.- Where a person is prosecuted for committing or abetting or

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attempting to commit any offence under sections, 3,5,7 and section 9 of this Act, the Special Court shall presume that such person has committed or abetted or attempted to commit the offence, as the case may be, unless the contrary is proved.”

“30. Presumption of culpable mental state. - (1) In any prosecution for any offence under this Act, which requires a culpable mental state on the part of the accused, the Special Court shall presume the existence of such mental state but it shall be a defence for the accused to prove the fact that he had no such mental state with respect to the Act charged as an offence in that prosecution. (2) For the purposes of this section as fact is said to be proved only when the Special Court believes it to exist beyond reasonable doubt and not merely when its existence is established by a preponderance of probability.

Explanation.- In this section, “culpable mental state” includes intention, motive, knowledge of a fact and the belief in, or reason to believe, a fact”.

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In the instant case, the evidence of the prosecution witnesses and the materials available before this court, is sufficient to create doubt in the mind of the court to believe that the accused committed the alleged offence or that the accused had culpable state of mind at the relevant time and the prosecution has failed to prove beyond reasonable doubt regarding existence of any culpable state of mind of the accused persons at the relevant point of time and the presumptions U/s.29 and U/s.30 of the POCSO act will not help the prosecution in any manner.

After considering the entire evidence on record as discussed above, it is clear to this court that the prosecution has failed to establish the charge U/s. 363/365/120B IPC and U/s.6 POCSO Act against accused A1 and U/s. 363/365/120B IPC against accused A2 and A3 and said accused persons are liable to be acquitted from this case.

Considering all, this court is not inclined to record an order of conviction against the accused

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persons. As a result the prosecution case fails miserably.

Hence, it is-

**ORDERED**

that the accused persons A1, A2 and A3 are hereby found not guilty in the present case and be acquitted as per S.235(1) Cr. P.C. The bail bonds of the accused persons be continued for next 06 months as per provision of S.437A Cr. P.C.

Alamats, if any, be preserved till appeal period.

Note in the relevant registers.

The fate of this case be informed to the defacto complainant of this case at once.

Declared and pronounced  
in open ejlash by me.

(RANA DAM)

ADDITIONAL SESSIONS JUDGE,  
2<sup>nd</sup> COURT, PURULIA  
CUM  
Judge, Protection of Children from  
Sexual Offences Act, Purulia.  
**(J.O Code—WB00729)**